

IN THE DRAWINGS:

Please replace the one (1) drawing sheet containing Fig. 3 with the "Replacement Sheet" included herewith. The corrections are shown in red ink on the one (1) sheet labeled "Annotated Marked-Up Drawings" also included, and reflect the following additions:

- 1) In Fig. 3, the first vertical stripe has been modified to replace the "x" representing the points with a dot and three (3) numerals 25 with indicating lines have been added to represent paint 25;

Please add the one (1) drawing sheet containing Figs. 11, 12 and 13 included herewith to overcome the Examiner's objection under 37 CFR 1.83(a) whereby the "instructions" and "video format" as claimed in claims 17 and 18 are now shown.

REMARKS:

Applicant includes herewith an RCE petition with requisite fee and Revocation of Power of Attorney with New Power of Attorney. Please address all communications to:

Walter L. Beavers
326 South Eugene Street
Greensboro, North Carolina 27401

The Examiner has rejected claims 1, 3-7, 11 and 27 under 35 U.S.C. §103(a) as being unpatentable over Schuette, Jr. et al (Schuette) in view of White. Claims 8-10 and 22-26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette and White in view of Barr. Claim 12 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette and White in view of Johansen et al. (Johansen). Claims 13 and 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette and White in view of Trane et al. (Trane). Claims 15 and 16 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette and White in view of Greer. Claims 17 and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette and White in view of Innis. Claims 19-21 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schuette, White and Innis as applied to claim 17 above and further in view of Barr.

Applicant has now modified claims 1 and 23 to include the marking pads and to describe the pads as viewable through the transparent plate. This allows for precise repositioning of the tool during the repetitive alignment steps as further described in the specification. Other changes have been made to the claims such as the "central" handle which allows the handle to be easily grasped and accurately repositioned while viewing the markings.

In claim 10 the shape of the marking pads is included, again for precise repositioning of the tool. In claim 15 the coplanar relation of the plates is set forth.

Other minor changes have been made to the specification, claims and drawings to better emphasize and explain applicant's invention without the addition of any new matter.

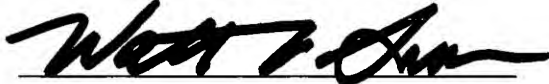
A clean version of the claims and specification is also provided herewith.

Accordingly, applicant believes with the changes made to the specification, drawings and claims to which no new matter has been added that all remaining claims as now presented are in condition for allowance over the prior art patents of Schuette, White, Barr, Johansen, Trane, Greer and Innis whether such art is considered severally under §102 or in combination under §103.

Claim allowance is therefore earnestly solicited at the Examiner's earliest convenience.

Respectfully submitted,

By:



Walter L. Beavers

Attorney For Applicant

Registration No. 26,704

326 South Eugene Street

Greensboro, North Carolina 27401

Telephone: (336) 275-7601

Facsimile: (336) 275-2009

E-mail: wbeavers@bellsouth.net

I do hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail No. ED 734004368 US in an envelope addressed to Mail Stop RCE, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, on this the 25th day of July, 2005.



Walter L. Beavers

CLEAN VERSION

Please replace the paragraphs beginning at page 2, line 21 through page 3, line 15 with the following rewritten paragraphs:

Figure 3 illustrates a method for marking a series of spaced vertical stripes on a substantially vertical surface using the tool of Figure 1;

Figure 4 illustrates an elevational view of a method for marking a series of spaced vertical stripes on a substantially vertical surface using the tool of Figure 1;

Figure 5 illustrates a method of marking a series of spaced horizontal stripes on a substantially vertical surface using the tool of Figure 1 in an alternate position;

Figure 6 is a perspective view of an alternate embodiment of the tool of Figure 1 for marking a repetitive block pattern on a substantially vertical surface;

Figure 7 illustrates an elevational view of a method for using the tool of Figure 6 to mark a repetitive block pattern on a substantially vertical surface;

Figure 8 is a perspective view of an alternate embodiment of the tool of Figure 1 for use in marking a repeating diamond

pattern on a substantially vertical surface;

Figure 9 illustrates a method for using the tool of Figure 8 to mark a repeating diamond pattern on a substantially vertical surface;

Figure 10a illustrates an elevational view of an alternate embodiment of the tool of Figure 8 for use in marking either a full or a half diamond pattern on a substantially vertical surface;

Figure 10b illustrates an elevational, exploded view of the tool as seen in Figure 10a;

Please add the following paragraphs after the paragraph ending at page 3 line 15 with the following paragraphs:

Figure 11 depicts a videotape;

Figure 12 illustrates a compact disc (CD); and

Figure 13 shows a digital video disc (DVD).

Please replace the paragraph beginning at page 5, line 4 with the following rewritten paragraph:

Figure 3 illustrates a method of using tool 10 shown in Figures 1 and 2 to mark a substantially vertical surface 30 such as a wall with a series of spaced vertical stripes. In a first method of marking, chalk, paint, or another suitable marking material is applied to marking pads 24 on tool 10. After selecting a starting position on surface 30, tool 10 is held proximate to vertical surface 30 at the starting position in a preferred vertical orientation as indicated by level 17. Tool 10 is then pressed against vertical surface 30 with sufficient pressure to cause marking material such as paint 25 as shown in Figure 3 to be transferred from marking pads 24 to discrete points 32 on surface 30. Tool 10 is then repositioned directly above or below the first set of marked points 32, reoriented to the preferred vertical orientation as indicated by level 17, and pressed against surface 30 to mark a second set of points 32 on surface 30. This process is continued until marked points 32 outline a complete vertical stripe having a desired length. Lines 34 may be marked between marked points 32 to define a stripe on surface 30 as shown. Edges 14 of tool 10 may be used as a straight edge to assist in marking lines 34. To mark a second vertical stripe on surface 30, tool 10 is laterally repositioned distance "a" from the previously marked stripe, and the process is repeated as described above. Graduated markings 11 (Figure 1) on tool 10 can be used to measure distance "a" between adjacent stripes. The process is continued until a desired number of spaced vertical stripes are marked on surface 30.

Please replace the paragraph beginning at page 7, line 6 with the following rewritten paragraph:

As shown in Figure 5, tool 10 can also be used to mark a series of spaced horizontal stripes on surface 30. This method is similar to the methods described above for marking a series of vertical stripes with tool 10, but tool 10 is used in a horizontal rather than a vertical orientation. For marking horizontal lines and stripes, tool 10 is oriented as shown in Figure 5. Second level 18 is used to indicate when tool 10 is in a substantially horizontal orientation, such as shown exploded in Figure 5 when bubble 26 is positioned at center 28 of level indicator 18. Each stripe is marked by progressively moving tool 10 in a horizontal direction and incrementally marking sections of a stripe on the vertical surface, either with markings pads 24 or with a marking device such as a pencil. Tool 10 is vertically repositioned to draw additional horizontal stripes on surface 30 by the same process. As described above with reference to vertical stripes, tool 10 can be used to mark horizontal stripes that are narrower, wider, or the same width as tool 10.

Please replace the paragraph beginning at page 7, line 17 with the following rewritten paragraph:

An embodiment of tool 40 for marking a block or brick pattern on a substantially vertical surface is shown in Figure

6. Tool 40 includes plate 42 having vertical edges 44 and horizontal edges 45 forming a rectangular outer shape. Preferably, plate 42 is constructed of a substantially transparent material. Handle 46 is provided on outer face 49 of tool 40. Level indicator 47 is provided on tool 40 to indicate when tool 40 is in a preferred level orientation, such as shown exploded in Figure 7 when bubble 56 is positioned at the center 57 of level indicator 47. Marking pads 48 may be provided at the corners on the inner face of tool 40 as shown in ghost fashion in Figure 6. Center marks 43 may be provided at the midpoints of horizontal edges 45 as shown. Additional graduated measurement markings may be provided along at least one edge of tool 40 (not shown).

Please replace the paragraph beginning at page 8, line 3 with the following rewritten paragraph:

Figure 7 illustrates a method of using tool 40 to mark a repetitive block pattern on substantially vertical surface 50. In this method, level indicator 47 is used to verify that tool 40 is in a preferred orientation as tool 40 is used to mark a pattern. Tool 40 is progressively positioned on surface 50 to mark a pattern as shown. The pattern can be marked using marking pads 48 to mark points 52 on surface 50. Marked points 52 are then connected with marked lines 54 to complete the pattern. Alternatively, a rectangular shape representing a single block can be marked directly on surface 50 with a marking

device such as a pencil. The rectangular outline of tool 40 is directly traced on surface 50. A row of blocks is marked by incrementally laterally moving leveled tool 40 along surface 50. Additional rows of blocks are marked in a similar manner. Center marks 43 can be used to stagger the block pattern between rows as shown.

Please replace the paragraph beginning at page 8, line 14 with the following rewritten paragraph:

Tool 60 for marking a repetitive diamond pattern on a substantially vertical surface is shown in Figure 8. Tool 60 includes plate 62 having an outer shape 64 forming a diamond. Tool 60 includes handle 66 and level indicator 67. Marking pads 68 may be provided at the corners on the inner face of tool 60 as shown in ghost fashion. Tool 60 can be used to mark a repetitive diamond or tile pattern on surface 70 as shown in Figure 9. When a spirit level is used as level indicator 67, tool 60 is in a preferred level orientation when bubble 76 is positioned at center 77 of spirit level 67 as shown. Tool 60 can be used to mark a repetitive pattern on a surface in a method similar to that described above for other embodiments of the tool 10, 40. Marking pads 68 can be used to transfer a marking material to surface 70 to mark discrete points 72 of the pattern, or tool 60 can be used as a template to trace a diamond shape directly on surface 70 with a marking device such as a pencil as shown by line 74 in Figure 9.

Please replace the paragraph beginning at page 9, line 3 with the following rewritten paragraph:

Figures 10a and 10b show alternate tool 100 for marking a diamond pattern on a substantially vertical surface. In this embodiment, plate 120 includes first plate portion 102 and second plate portion 104. First and second plate portions 102, 104 mate at seam 111 to form plate 120. Handle 106 includes first handle portion 108, and second handle portion 109. At least one connector dowel 107 is provided to align and connect plate portions 102, 104 to each other. In the embodiment shown, two dowels 107 are provided in first handle portion 108. Dowels 107 engage mating holes 110 in second handle portion 109. When first and second plate portions 102, 104 are joined together at seam 111 and dowels 107 are engaged in holes 110, handle 106 can be gripped in the hand of a user, thereby preventing plate portions 102, 104 from separating during use for marking a full diamond pattern on a surface. Either of the separated plate portions 102, 104 can be used individually, however, to mark a half-diamond pattern on a surface. At least one level indicator 114 is provided on at least one of plate portions 102, 104 to indicate when tool 100 is in a level orientation during use. Separate plate portions 102, 104 are useful for marking portions of a staggered block pattern where the pattern intersects a corner, door, window, or the like. For example, as shown in Figure 9, plate portion 104 can be used to mark a half-diamond shape on a portion of a surface 70 that is adjacent to a

vertical obstruction 130. Though divisible tool 100 is shown having a diamond outer shape, plate 120 can have any desired polygonal outer shape such as a rectangle, hexagon, octagon, star shape, or the like.

Please replace the paragraph beginning at page 9, line 23 with the following rewritten paragraph:

One or more marking tools or templates like those described above may be included as a portion of a faux painting kit. Such a kit may include instructional information for using such a tool or template. The instructional information may be provided in a video format such as videotape 80 seen in Figure 11, compact disc (CD) 81 seen in Figure 12, or digital video disc (DVD) 82 seen in Figure 13, for example. In addition, such a kit may include one or more painting products. Such painting products may include, but are not limited to, paint, glaze material such as is commonly used in faux painting, paint brushes, paint rollers, other paint applicators, marking materials such as chalk, masking tape, sponges, cheese cloth or other fabric material, and the like.

IN THE CLAIMS:

Please amend claims 1, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 24, 25 and 26 and cancel claims 2, 5, 6, 7, 8, 20, 21, 22 and 27 as follows:

1. (Currently Amended) A tool for marking a repetitive geometric pattern on a surface, the tool comprising:
 - (a) a substantially transparent plate including an outer face, an inner face and outer edges forming a polygonal outer shape, the outer shape comprising at least a portion of the repetitive geometric pattern;
 - (b) a central handle, said central handle rigidly attached to said outer face;
 - (c) a first level, said first level positioned on said plate in a location such that said plate is in a first preferred orientation for marking at least a portion of the geometric pattern on the surface when the first level indicates said plate is in a substantially level position;
 - (d) a second level, said second level positioned on said plate such that said plate is in a second preferred orientation for marking at least a portion of the geometric pattern on the surface when said second level indicates said plate is in

- a substantially level position; and
- (e) a plurality of spatially aligned marking pads, each of said marking pads affixed to said inner face of said plate, said marking pads being capable of at least temporarily retaining and transferring a marking material to the surface, each of said marking pads visible through said outer face to permit precise repositioning of said tool on the surface.
2. (Canceled)
3. (Original) A tool according to claim 1 wherein the polygonal shape is a rectangle.
4. (Currently Amended) A tool according to claim 3 wherein the rectangular plate includes first and second outer edges, said first and second outer edges each having graduated markings therealong.
- 5.-8. (Canceled)
9. (Currently Amended) A tool according to claim 1 wherein said marking pads are affixed to said inner face of said plate proximate corners of the polygonal outer shape.
10. (Currently Amended) A tool according to claim 9 wherein said marking pads each comprise a circular shaped foam

material and the marking material comprises paint.

11. (Currently Amended) A tool according to claim 4 wherein said inner face of said plate includes a substantially planar portion proximate said outer edges.
12. (Currently Amended) A tool according to claim 11 wherein said inner face of said plate further includes a concave portion, wherein said substantially planar portion of said plate contacts the surface when said plate is positioned thereon.
13. (Currently Amended) A tool according to claim 1 wherein said handle comprises a knob, said knob sized and configured for grasping in the palm of a person's hand.
14. (Currently Amended) A tool according to claim 13 wherein said knob defines at least one contoured recess sized and shaped to receive at least one finger of a person's hand.
15. (Currently Amended) A tool according to claim 1 wherein said plate includes a first plate portion and a second plate portion, said first and said second plate portions defining a seam therebetween, a connector, said connector releasably connecting said first and said second plate portions such that said first and said second plate portions are releasably joined in coplanar relation to form the polygonal outer shape.

16. (Currently Amended) A tool according to claim 1 wherein the polygonal outer shape defines a diamond configuration.
17. (Currently Amended) A kit for enabling a person to mark a desired repetitive geometric pattern on a surface, the kit comprising:
 - (a) a tool, said tool comprising:
 - (i) a substantially transparent plate including an outer face, an inner face, and outer edges, said outer edges forming a polygonal outer shape, the outer shape comprising at least a portion of the repetitive geometric pattern;
 - (ii) a central handle, said central handle attached to said outer face;
 - (iii) a first level, said first level attached on said plate in a first location such that said plate is in a first preferred orientation for marking at least a portion of the geometric pattern on the surface when said first level indicates said plate is in a substantially level position; and
 - (iv) a second level, said second level attached on said plate in a second location such that said plate is in a second preferred orientation for marking at least a portion of the geometric pattern on the surface when said second level indicates said plate is in

- a substantially level position; and
 - (b) instructional information including instructions for using said tool to mark a repetitive geometric pattern on the surface.
18. (Currently Amended) A kit according to claim 17 wherein at least a portion of the instructional information comprises a video format.
19. (Currently Amended) A kit according to claim 17 further comprising paint.
- 20.-22. (Canceled)
23. (Currently Amended) A method of painting a repetitive pattern on a surface, the method comprising the steps of:
- (a) selecting a tool, said tool comprising:
 - i) a substantially transparent plate including an outer face, an inner face, and outer plate edges forming a polygonal outer shape, the outer shape comprising at least a portion of the repetitive geometric pattern;
 - ii) a central handle rigidly attached to said outer face; and
 - iii) a first level on said plate in a location such that said plate is in a first preferred orientation for marking at least a portion of the geometric pattern on the surface when

said first level indicates said plate is level;

- (b) selecting a starting location on the surface;
- (c) placing the substantially transparent plate on the surface at the starting location, wherein the tool is oriented such that the level indicates the tool is in the first preferred position;
- (d) marking a first geometric shape on the surface with a marking material while using the polygonal outer shape of the plate as a marking guide;
- (e) repositioning the tool to at least a second location on the surface, orienting the tool in the first preferred position while viewing the surface through the transparent plate;
- (f) marking one or more additional geometric shapes on the surface with a marking material while using the polygonal outer shape of the plate as a marking guide; and
- (g) painting a pattern on the surface using the marked shapes as guides.

24. (Currently Amended) A method according to claim 23 wherein marking a geometric shape comprises the step of marking a series of substantially vertical stripes on the surface.

25. (Currently Amended) A method according to claim 23 wherein marking a geometric shape comprises the step of marking a block pattern on the surface.

26. (Currently Amended) A method according to claim 23 wherein the tool further comprises a plurality of marking pads affixed to the inner face of the plate, the marking pads being capable of at least temporarily retaining and transferring a marking material to the surface, and wherein marking a first geometric shape on the surface with a marking material comprises the steps of: a) loading the marking pads with a marking material and b) transferring at least a portion of the marking material from the marking pads to the surface.

27. (Canceled)

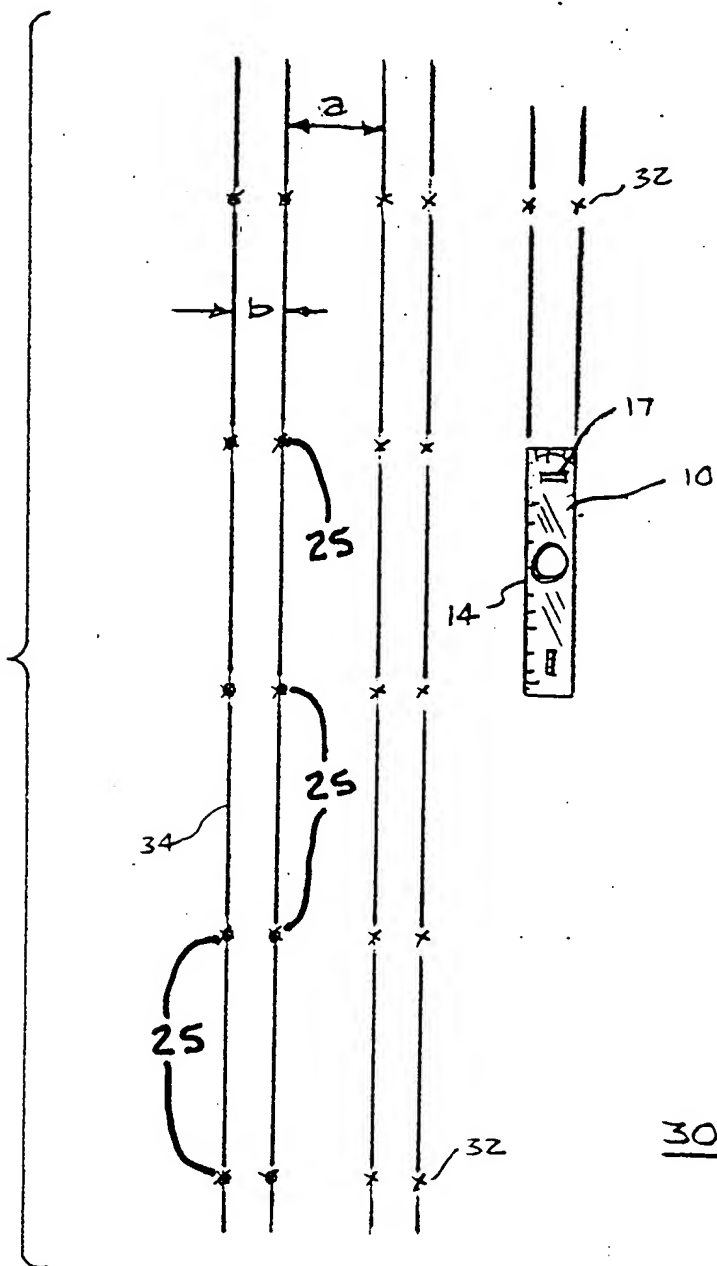


FIG. 3